

OFFICE OF ADJUDICATIONS

IN THE MATTER OF

: APPLICATION NO.200201976-MG

***THE CONNECTICUT LIGHT
AND POWER COMPANY***

: JULY 17, 2007

PROPOSED FINAL DECISION

I

SUMMARY

On June 29, 2007, the applicant and DEP staff jointly filed the attached Agreed Draft Decision for my review and consideration. (Attachment A.) Regs., Conn. State Agencies §22a-3a-6(1)(3)(A). I have reviewed this submission, the record and the relevant law in this matter. I find that the application complies with the applicable statutes and relevant provisions of the implementing regulations. Furthermore, I find that the parties' Agreed Draft Decision, as supplemented herein, satisfactorily conveys the factual finding and legal conclusions necessary to support my conclusion. I therefore adopt this Agreed Draft Decision as part of my Proposed Final Decision.

The DEP has prepared a draft permit authorizing the project. (Attachment B.) The record and this draft permit reflect staff's consideration of all of the relevant criteria set forth in the applicable statutes and regulations governing the proposed activity.

If conducted as proposed and in accordance with the terms and conditions of the draft permit, the regulated activities would be consistent with all relevant statutes and

regulations regarding coastal resources, tidal wetlands and coastal management. General Statutes §§22a-28 through 22a-35, 22a-90 through 22a-112, 22a-359 through 22a-363f, and Regs., Conn. State Agencies §§22a-30-1 through 22a-30-17.

I therefore recommend issuance of the draft permit subject to the Agreed Draft Decision and the supplemental findings and conclusions of law set out below.

II

DECISION

A

FINDINGS OF FACT

The following findings supplement specific findings of fact contained in the Agreed Draft Decision. The numbered paragraphs correspond to the proposed findings of fact as they are numbered in the agreed draft decision.¹

1. Site Location and Character

1a. The site of the existing cable crossing on Sheffield Island is identified as beaches and dunes on the Coastal Resources Map². The northwestern side of Sheffield Island is identified as a coastal bluff and escarpment. Sheffield Island is also part of the Stewart McKinney Wildlife Sanctuary maintained by the U.S. Fish and Wildlife Service (FWS).³ The cable corridor also crosses municipal and state-managed shellfish beds to the north and south of Sheffield Island and to the south of Manresa Island. Between the islands, the corridor crosses recreational or “natural” shellfish areas. (Ex. APP-1, ex. DEP-13.)

¹ Testimony provided at the hearing on this application summarizes the exhibits entered into the record. Therefore, the citations to the record will only reference the exhibits.

² Maps that depict the location and condition of the following thirteen coastal resources as they are defined in the Connecticut Coastal Management Act: shorelands, bluffs and escarpments, rocky shorefronts, beaches and dunes, intertidal flats, tidal wetlands, freshwater wetlands and watercourses, estuarine embayments, coastal hazard areas, developed shorefront, islands, near shore marshy waters, and offshore waters. General Statutes §22a-93 (7).

³ Activity on the island is subject to federal land use restrictions. The applicant maintains an easement on the island and will conduct its activities within its easement. (Ex. DEP-13, ex. APP-1.)

2. **Application History**

2a. The applicant has entered into an agreement with the Norwalk Shellfish Commission regarding appropriate silt containment, restoration of natural bottom contours damaged during the project and restoration of shellfish beds damaged by installation of the existing cables and by the proposed activities. The Norwalk Harbor Management Commission has recommended favorable action on the application subject to conditions that are addressed in the draft permit and/or in the agreement with the Norwalk Shellfish Commission.⁴ (Ex. APP - 9.)

2b. The record in this matter closed on July 4, 2007. On July 12, 2007, the parties moved to reopen the record for the limited purpose of recommending changes to the draft permit. That motion was granted on July 16, 2007.⁵

3. **Project Description**

3a. The cable removal process would consist of pumping and flushing the dielectric fluid from the cables, then cutting and lifting the cables onto a barge. Most of the cable would be removed by a pulling operation, however, some hydro-mechanical assistance such as mechanical agitation and hydrojetting, may be necessary closer to shore to remove consolidated sediments covering the cables. (Ex. DEP-13.)

3b. Replacement cables would be laid within the corridor previously occupied by three of the existing cables. The primary cable-laying vessel, the C/S Havila Skagerrak, would not be used between Manresa and Sheffield Islands due to shallow water conditions. Smaller shallow-draft cable-laying vessels would be used between the islands and in other nearshore areas. Cables would be laid on prepared trenches and buried with a

⁴ During the June 27, 2007 hearing, the Norwalk Harbor Management Commission read into the record its written recommendations and conditions. This document is contained in the file maintained by the Office of Adjudications and is part of the record in this matter. General Statutes §4-177(d).

⁵ The parties' motion and my ruling are contained in the file maintained by the Office of Adjudications and are part of the record in this matter. §4-177(d).

remote operated hydraulic jet plow with some diver assistance where necessary. (Ex. APP-1, ex. DEP-13.)

3c. Custom-made cast iron pipe casings would be used in areas between Sheffield Island and Manresa Island to provide additional protection for the cables. Concrete mattresses located within trenches on the south side of Sheffield Island and in the intertidal area on Manresa Island would also be used for additional protection. Cables will be separated so that each cable may be repaired without de-energizing the other two. Separated cables will follow the same alignment as the existing cables, which will result in minimal disturbance to the substrate and reduce the likelihood of obstacles in the cable path. (Ex. DEP-13.)

3d. Conventional trenching equipment (excavators, backhoes) would be required at the nearshore area on Manresa and Sheffield Islands where mats or slabs exist to protect the existing cables. The hydraulic jet plow would be used to install cables to mean high water (MHW). Installation landward of MHW would be conducted with conventional excavation equipment. The draft permit requires the applicant to install appropriate sedimentation and erosion control measures around the work area. (Exs. DEP-13, 24.)

7. Shellfish

7a. Leased shellfish beds located south of Sheffield Island are under the jurisdiction of the Connecticut Department of Agriculture, Bureau of Aquaculture (BOA) and beds located north of Sheffield Island are under the jurisdiction of the Norwalk Shellfish Commission. The applicant has entered into an agreement with the Norwalk Shellfish Commission regarding such issues as silt containment inside Norwalk Harbor and restoration of any area damaged within the harbor. (Ex. APP-9, ex. DEP-13.)

7b. Shellfish in the project area may be exposed to short-term turbidity resulting from trench excavation and transported sediments during the cable removal and installation processes. To minimize such impact, the applicant would be required to conduct the

proposed activities outside of the June 1 to September 30 shellfish spawning season. The draft permit contains additional conditions intended to further minimize potential impacts to existing shellfish resources including a requirement for notice to area shellfisherman prior to the start of the project, pre-and post-installation surveys of shellfish beds in the project area, cable burial depth requirements and remediation of impacted shellfish beds. (Exs. DEP-13, 24.)

7c. The Department of Agriculture/Bureau of Aquaculture (DA/BA) determined that the proposed activities would have no significant impact on shellfish resources provided that the applicant complies with the seasonal restrictions, develops a shellfish restoration plan in consultation with the DA/BA, and the proposed activities occur within one season. In a June 29, 2007 memorandum, the DA/BA indicated that if the proposed activities are conducted in accordance with the draft permit conditions and shellfish monitoring plan, commercial shellfishing may be restored and enhanced in an area that had previously been disturbed and unavailable for shellfishing. The DA/BA determined that the restoration would address both current damage and any previous damage from the installation of the existing cables and, therefore, the “cable replacement project in its entirety will not significantly impact shellfish and shellfish habitat.” (Exs. DEP - 12, 13, ex. HO-1.)

10. **Finfish**

10a. Impacts to finfish in the direct vicinity of the cable path would be expected from the temporary sediment disturbance caused by the excavation and hydraulic jet plow. DEP Marine Fisheries has determined that the thermal or magnetic field effects from the cables are not expected to negatively impact finfish. The applicant would identify and notify commercial fishermen in the proposed work area in advance of the removal and installation activities to minimize conflicts with fishing activities and fishing gear. (Exs. APP-1, 13, ex. DEP-12.)

13. Environmental Impacts

13a. To minimize environmental impacts, the applicant intends to install the new cables within the existing cable corridor and to use existing landfalls and substation interconnections. Use of the hydraulic jet plow would minimize trench widths and shorten the duration of the cable installation and associated sedimentation suspension. Best management practices would be implemented including conducting activities in accordance with the National Marine Fisheries Service standard practices for mariners to avoid potential “harassment” of marine mammals that may appear in the project vicinity. (Ex. APP-1, ex. DEP-13.)

13b. The Manresa Island landfall and crossing areas are identified by the Federal Emergency Management Agency as within the 100-year floodplain and subject to coastal floods. The proposed stone or concrete mattresses would be installed at grade and the cable installation would be below grade, therefore, there are no adverse flooding impacts associated with the project. Also, there are no potential adverse impacts to water circulation patterns, drainage patterns, or shore erosion associated with the project. Water quality may be affected by sediment disturbance during the proposed activities, however, the effects are expected to be of short duration and no change in sediment or water quality is anticipated. (Ex. APP-1, ex. DEP-13.)

14. Draft Permit Conditions

14a. The draft permit contains specific terms and conditions that prescribe the methods for removing and installing the cables, cable burial depths, and monitoring and restoration requirements. The applicant would also be required to provide pre- and post installation notice to mariners, fishermen, shellfish bed owners and leaseholders, and various state and federal agencies and offices regarding the project schedule and nautical chart changes. (Ex. DEP-24.)

14b. Prior to installation, the applicant would be required to survey the existing cable corridor within specific parameters. Thereafter, biennial surveys are required to

determine if the cables have migrated, which would require the applicant to take corrective action. (Ex. DEP-24.)

14c. The applicant would be required to develop and implement a plan and schedule to conduct baseline surveys of existing shellfish beds prior to the commencement of the proposed activities and three additional post-installation surveys at six month intervals. The purpose of such surveys would be to determine the rate of sediment reconsolidation and biological recolonization in areas disturbed by the project and would include assessments of existing benthic conditions, sediment conditions, temperature, shellfish resource types, health and concentrations. The applicant may be required to remediate any impacted shellfish beds. (Ex. DEP-24.)

14d. The draft permit requires the applicant to plan and schedule two years of monitoring of electromagnetic fields, temperature, sediment chemistry, habitat disturbance and species impacts along the cable routes. The applicant would be required to mitigate or restore areas that have been adversely impacted by the cable installation. (Ex. DEP-24.)

14e. The applicant would also be required to prepare a tidal wetlands restoration plan to mitigate the impacted tidal wetlands areas located on Sheffield Island that are associated with the project. A plan for restoring shellfish beds impacted by the project and by previous cable installations would also be required. This plan would include provisions for backfilling trenches and placement of culch or other suitable bed material to encourage oyster population. (Ex. DEP-24.)

14f. A plan is required to compensate commercial shellfishermen, fishermen and lobstermen to catch lost or destroyed due to the proposed activities. The plan would include proof of loss requirements and a standard or formula for determining current fair market value of lost or destroyed catch. (Ex. DEP-24.)

14g. The parties have recommended the following revisions to the draft permit:

1. Page 2: **SPECIAL TERMS AND CONDITIONS**

Notice Requirements No. 3

Add “lobstermen” after the term “affected fisherman” in line 3.

Change “fisherman” to “affected party” in line 9.

2. Page 6: **Pre-Installation Requirements**

Paragraph 1.(b):

Change “if the cable has” to “if any portion(s) of the cables have” in line 3.

Paragraph 1.(c):

Change “cable” to “cables” in line 1.

3. Page 9: **Restoration Requirements**

Paragraph 2.

Change “oyster populations” to “shellfish beds” in line 1 (line 7 of the full condition.)

4. Page 10: **Administrative Requirements**

Paragraph 8

Change “6” to “7” in line 2.

5. Page 12: **Administrative Requirements**

Paragraph 16.

Eliminate the entire condition.

B

CONCLUSIONS OF LAW

The applicant has sufficiently demonstrated that all adverse environmental impacts associated with the proposed project have been avoided, minimized or mitigated. The proposed activities, if conducted in accordance with the terms and conditions of the draft permit as modified, would be consistent with all applicable criteria of the relevant statutes and regulations.

III

RECOMMENDATION

I recommend that the Commissioner issue the requested permit incorporating the terms and conditions set forth in the draft permit (Attachment B) and the recommended revisions set forth in this decision.

/s/ Jean F. Dellamarggio
Jean F. Dellamarggio, Hearing Officer

PARTY LIST

Proposed Final Decision In the Matter of The Connecticut Light & Power Company
Application No. 200201976-MG

PARTY

REPRESENTED BY

APPLICANTS

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Micheal Grzywinski

**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of	:	Application No. 200201976-MG
	:	
The Connecticut Light and Power Company	:	June 29, 2007

AGREED DRAFT DECISION

1. Introduction:

On April 16, 2002, The Connecticut Light and Power Company ("CL&P" or "Applicant") submitted an application to undertake regulated activities in tidal, coastal and navigable waters of the State waterward of the high tide line and in an area of tidal wetlands, for the removal of seven (7) existing fluid-filled electric transmission cables and the installation of three (3) new solid-core electric transmission cables between CL&P's Norwalk Harbor Substation in Norwalk, Connecticut and the Long Island Power Authority's ("LIPA") Northport Substation in Northport, New York (APP-1). This application seeks a permit to undertake said regulated activities under the Structures, Dredging and Fill provisions of Connecticut General Statutes §§ 22a-359 through 363f, in accordance with the Coastal Management Act, Connecticut General Statutes §§ 22a-90 through 112, and the Tidal Wetlands Act and regulations, Connecticut General Statutes §§ 22a-28 through 22a-35 and Regs. Conn. State Agencies, §§22a-30-1 through 22a-30-17.

2. Parties

The parties to this proceeding are: the Applicant, CL&P, and staff from the Connecticut Department of Environmental Protection ("DEP"), Office of Long Island Sound Programs ("OLISP"). The Norwalk Shellfish Commission ("NSC") has withdrawn its request for intervention.

The parties have agreed to the admission of all the exhibits on the attached Pre-hearing submissions comprising staff exhibits DEP-1 through DEP-27 and the Applicant's exhibits, APP-1 through APP-10D.

FINDINGS OF FACT

BACKGROUND

1. Site Location and Character

The site is located in an existing corridor from CL&P's Norwalk Harbor Substation through Norwalk Harbor, across Sheffield Island, through Long Island Sound to LIPA's Northport Substation for a total of approximately 11 miles, 5.6 miles of which are in Connecticut waters. There are small bands of tidal wetlands associated with Manresa and Sheffield Islands. *Spartina alterniflora* is located in the intertidal area on Sheffield Island and *Salicornia spp.* is located on Sheffield Island in between the hard cobble groundcover of the upland areas (APP-1).

2. Application History

The permit application was filed with DEP on April 16, 2002. DEP requested additional information in letters dated November 7, 2002 (DEP-1), March 18, 2003 (DEP-3) and at various meetings in 2006 and 2007. CL&P responded to such requests on December 13, 2002 (DEP-2), June 13, 2003 (DEP-4), August 30, 2006 (APP-1A and APP-1B) and February 26, 2007 (APP-1C).

In evaluating the application, OLISP staff solicited or received input from the State of Connecticut Department of Agriculture, Bureau of Aquaculture, the State of Connecticut Historic Preservation Office, DEP-Fisheries Division, DEP-Wildlife Division and the Norwalk Shellfish Commission (DEP-13). On April 24, 2007, DEP issued a Notice of Tentative Determination to Approve and Intent to Waive a Public Hearing (DEP-14). The public comment period closed on June 4, 2007. On May 31, 2007, OLISP staff received a petition from Ms. Leigh Grant requesting a public hearing on the

application containing 52 signatures (DEP-19). In accordance with statutory requirements, upon receipt of the petition, a public hearing was scheduled on the application (DEP-21 and DEP-23). On June 7, 2007, the hearing officer, Jean F. Dellamarggio, of the DEP Office of Adjudications, held a status conference. The parties submitted their pre-hearing exchange of information on June 20, 2007. The hearing was held in Norwalk at the Norwalk City Hall on June 27, 2007 at 6:30 p.m. At the hearing, the Applicant and DEP presented evidence and testimony that the proposed cable work was appropriate for its intended use and that it complied with the relevant statutory and regulatory requirements.

3. Project Description

The Applicant seeks authorization to remove seven (7) existing fluid-filled electric transmission cables and install three (3) new solid-core electric transmission cables in a corridor between CL&P's Norwalk Harbor Substation in Norwalk, Connecticut and LIPA's Northport Substation in Northport, N.Y. ("the Project") (APP-1). The Project traverses a distance of approximately 11 miles, of which 5.6 miles is in Connecticut. The current DEP-approved Project schedule requires completion of all removal/installation activities and an In-Service Date ("ISD") of May 2008 (APP-6E).

4. Purpose and Use of Cable System

The purpose of the proposed work is to remove the existing fluid-filled cable system, which through numerous incidents/accidents since its installation in 1969, has leaked dielectric fluid into Long Island Sound, potentially impacting shellfish resources as well as causing the cable system to be out-of-service during repair activities, negatively impacting the region's electric reliability (APP-1, APP-4). The replacement cable system, which has a solid core insulation and better protected, will maintain the needed electrical reliability and reduce future maintenance and repair costs, while eliminating the potential for dielectric fluid leaks into the environment (APP-1, APP-7).

5. Compliance and Enforcement History

Consent Order #WC5191, dated October 13, 1995, modified May 31, 1996 (APP-4) was entered into between DEP, CL&P and Long Island Lighting Company (LIPA's predecessor) to address the leaks from the existing cable system. Amongst various requirements of the Consent Order Modification, was the submittal of a scope of study for investigation of, inter alia, conceptual alternatives for replacement of the cables (APP-4, ¶B.I.j (i)). On June 24, 2004, DEP, CL&P, LIPA and several other parties entered into a Settlement Agreement (APP-5) which required CL&P and LIPA to develop and implement a plan for replacement of the cable system on a schedule approved by DEP. Said Implementation Plan and Schedule was initially submitted on September 30, 2004 (APP-6), approved by DEP on January 24, 2005 (APP-6A) and amended on several subsequent occasions, most recently on January 25, 2007 (APP-6B). DEP's most recent letter on the approved Implementation Plan and Schedule notes that "...it is critical that further delays be minimized to ensure an in-service date in May of 2008." (APP-6E).

6. Tidal Wetlands Vegetation

The Manresa Island and Sheffield Island shorelines contain several coastal resources within the cable corridor, including tidal wetland vegetation and beaches. Based on a November 26, 2002 inspection with DEP-OLISP staff and a biologist from the United States Fish and Wildlife Service ("FWS"), the entire project area on Sheffield Island was determined to contain tidal wetland vegetation (DEP-2, DEP-3). There is an area of *Spartina alterniflora* located in the intertidal area on the north side of the island and the upland portion of the existing cable crossing contains areas of *Salicornia spp.* No rare wetland vegetation or rare plant species are documented to be present at or adjacent to the Manresa Island Landfall (APP-1, DEP-26). Wetland areas disturbed by the proposed activities will be restored to pre-existing conditions (DEP-24). Restoration will be conducted by ensuring the near-surface soil conditions,

after rehabilitation, are comparable hydrologically and at the same surface elevation to what previously existed (DEP-24).

7. Shellfish

Shellfish resources existing in Norwalk/Sheffield Island Harbor include two mollusks: the hardshell clam and the eastern oyster. An area of commercially leased or franchised shellfish habitat occupies nearly 2 square miles of coastal waters in the vicinity of Sheffield Island. Softshell clams are known to occur south of Sheffield Island (APP-1). American lobsters are found throughout Long Island Sound. Other shellfish found in and around Norwalk Harbor and Long Island Sound include conch, mussels, surf clams and razor clams. Any impacts to the shellfish resources within the Project area are anticipated to be of a localized, temporary and short-term nature. A Monitoring & Mitigation Plan will measure those impacts, associated with the removal of the existing cables and the installation of the proposed cables resulting from the installation methodology. Removal of the old fluid-filled cables will reduce the chances of impact to shellfish resources in the future by removing the threat of dielectric cable fluid release into the resource area (DEP-13).

8. Connecticut Endangered, Threatened and Special Concern Species

A review of all Endangered, Threatened and Special Concern Species was conducted for the project site by staff of the DEP Environmental and Geographic Center (“EGIC”). In a letter dated June 20, 2007 to Mr. Raul de Brigard, the Applicant’s representative, from Dawn M. McKay of DEP-EGIC indicated that within the project boundaries there are “known extant populations of State Threatened and Special Concern Bird Species (DEP-26). These species include the Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*), the Least Tern (*Sterna antillarum*), American Oystercatcher (*Haematopus palliatus*), Yellow-crowned Night Heron (*Nyctanassa violacea*) and the Common Tern (*Sterna hirundo*).

Project activities are not anticipated to impact these species. The EGIC letter also states that the project activities will “not impact any known state-listed plant species or significant natural community that may occur in the vicinity of this project site” (DEP-26).

9. Intertidal Mudflats

There are no intertidal mudflats within or adjacent to the cable corridor (APP-1, DEP13).

10. Finfish

Several species of finfish are known to occur in Norwalk Harbor and at least 83 species of finfish utilize or exist in Long Island Sound. Project impacts on finfish are expected to be localized, temporary and short-term and will be mitigated by seasonal restrictions on project activities and the mobility of the finfish species in their juvenile and adult life stages (APP-1).

11. Navigation Impacts

The cable removal barge, the cable lay and burial barges and the cable lay and burial ship are considered “vessels restricted in their ability to maneuver” under the Inland Navigation Rules Act of 1980. Such vessels cannot readily relocate to accommodate other vessel traffic. It would be very difficult to disengage these vessels from the cable removal or installation activities. However, the footprint of the work area will always allow for the passage of vessel traffic around the vessels, except at the Norwalk Harbor Federal Channel and the Village Creek Channel when there is cable removal or installation work taking place inside the channels. For such interruptions, the Applicant will work with the Long Island Sound Sector of the United States Coast Guard and the Norwalk Harbor Master to minimize actual disruptions to channel traffic by providing advance information to mariners and de-conflicting any issues pertaining to the use of the waterways (APP-8).

12. Public Trust

Pursuant to CGS section 22a-92(a)(3) "*...to give high priority and preference to uses and facilities which are dependent upon proximity to the water or the shorelands immediately adjacent to marine and tidal waters.*" While the Connecticut Coastal Management Act does give high priority and preference to water dependent uses, it does not prohibit non-water dependent uses. However, such uses must have an important public policy function (i.e. providing a reliable energy source across the region). This Project meets that criterion (DEP-13).

13. Environmental Impacts

Environmental impacts associated with the Project have been minimized to the greatest extent possible through Project design and special permit terms and conditions. The removal/installation activities are not anticipated to adversely impact existing tidal wetlands, shellfish or finfish resources (DEP-13).

ALTERNATIVES

The alternative of doing nothing and leaving the existing cable in place and in-service was rejected as contrary to DEP's desire to eliminate or reduce leaks from the existing cable network. The alternative of removing the cable system and not replacing it with a new system was rejected due to the region's need for electric reliability as served by the existing and new cable systems (APP-7). The Applicant also considered the following alternatives which assumed replacement with a new solid-core cable system (APP-1, APP-3):

- a. Complete (100%) removal of all existing cables: This alternative was rejected as it creates the possibility of excessive sediment disturbance in areas where the buried cable cannot be feasibly lifted out.
- b. Removal/Limited Potential Abandonment in Norwalk Harbor: This is the preferred alternative since it will remove as much of the existing cable system as possible without creating excess and unwarranted sediment disturbance for removal of buried cable in select locations.
- c. Removal/Abandonment: This alternative would leave all buried cable not being replaced. This alternative was rejected since the fate of buried abandoned cables and the probable deterioration of metals in the cable is likely a risk to the environment and may impede the future use of the corridor for other utility projects.
- d. Route Alternatives: Six (6) route alternatives were considered, with the East Route Corridor being the Preferred Route since it is in the existing Cable Corridor and has the least amount of surface and shallow sub-surface bedrock. Other potential routes were rejected due to more prevalent bedrock expressions, shipwrecks, disturbance of new undisturbed shellfish beds, impacts on lobster resources, lengthier routes and a crossing of the federal channel outside of the existing Cable Corridor.
- e. Upon request by the Norwalk Shellfish Commission and DEP-OLISP, the Applicant considered and evaluated an alternative installation method utilizing Horizontal Directional Drilling ("HDD") between Manresa and Sheffield Islands. HDD was determined to be infeasible (APP-1A).

After balancing all of the relevant concerns, the removal of the existing cables and the installation of new cables in the existing cable corridor (East) was determined to minimize impacts to coastal resources and represents the least intensive and most environmentally sensitive of the alternatives considered (APP-1, DEP-13).

CONCLUSION

1. Environmental Impact of the Proposed Action

The record supports a finding that the potential environmental impacts from the proposed Project have been sufficiently minimized and the proposed Project is consistent with the following policies regarding coastal resources, tidal wetlands, and coastal management:

- a. Section 22a-92(a)(1) of the CGS, which requires that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth;
- b. Section 22a-92(b)(1)(D) of the CGS, which requires that structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulation and sedimentation patterns, water quality, and flooding and erosion, to reduce to the maximum extent practicable the use of fill, and to reduce conflicts with the riparian rights of adjacent landowners;
- c. Section 22a-92(b)(1)(H) of the CGS, which provides for the protection of coastal resources by requiring, where feasible, that such boating uses and facilities (i) minimize disruption or degradation of natural coastal resources, (ii) utilize existing altered, developed or redeveloped areas, (iii) are located to assure optimal distribution of state owned facilities to the state wide boating public, and (iv) utilize ramps and dry storage rather than slips in environmentally sensitive areas;
- d. Section 22a-92(b)(2)(E) of the CGS, which requires the preservation of tidal wetlands and the prevention of despoliation and destruction of tidal wetlands in order to maintain their vital natural functions;

f. Section 22a-92(c)(1)(B) of the CGS, which disallows any filling of tidal wetlands and nearshore, offshore and intertidal waters for the purpose of creating new land from existing wetlands and coastal waters which would otherwise be undevelopable unless it is found that adverse impacts on coastal resources are minimal;

g. Section 22a-92(c)(2)(A) of the CGS, which requires the management of estuarine embayments so as to insure that coastal uses proceed in a manner that assures sustained biological productivity, the maintenance of healthy marine populations and the maintenance of essential patterns of circulation, drainage and basin configuration; and to protect, enhance and allow natural restoration of eelgrass flats except in special limited cases, notably shellfish management, where the benefits accrued through alteration of the flat may outweigh the long-term benefits to marine biota, waterfowl, and commercial and recreational fisheries;

h. Section 26-310(a) of the CGS which requires that each state agency, in consultation with the Commissioner, shall conserve endangered and threatened species and their essential habitats, and shall ensure that any action authorized, funded or performed by such agency does not threaten the continued existence of endangered or threatened species or result in the destruction or adverse modification of habitat designated as essential to such species, unless such agency has been granted an exemption;

i. Section 22a-359 of the CGS, which establishes the criteria for review of applications seeking permission for dredging and erection of structures and placement of fill in tidal, coastal or navigable waters;

j. Section 22a-33 of the CGS, which establishes the criteria for review of Tidal Wetlands Act application; and

k. Section 22a-30-10 of the Tidal Wetlands Regulations, which further explains the criteria for Tidal Wetland Act review.

2. Consistent with All Applicable Standards

The proposed Project is consistent with applicable standards, goals and policies of sections 22a-28 through 22a-35 and 22a-359 of the CGS, which requires DEP to make permit decisions with due regard for indigenous aquatic life, fish and wildlife, the use and development of adjoining uplands, and the recreational use of public water and management of coastal resources, with proper regard for the rights and interests of all persons concerned.

3. Alternatives to the Proposed Action

There are no feasible or prudent alternatives which would have less impact on the adjacent coastal resources.

AGREEMENT

Based on the foregoing, the undersigned hereby agree to the granting of a permit subject to the standard and special conditions stated in the Draft Permit, attached hereto as DEP-24.

**CONNECTICUT DEPARTMENT
OF ENVIRONMENTAL PROTECTION
OFFICE OF LONG ISLAND SOUND PROGRAMS**

Micheal P. Grzywinski
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PERMIT

Permit No.: 200201976-MG

City: City of Norwalk

Work Area: Norwalk Harbor off property located at the Norwalk Harbor Substation on Long Shore Drive

Permittee: Connecticut Light & Power Company
c/o Jeff Martin
P.O. Box 270
Hartford, CT 06141-0270

Pursuant to sections 22a-359 through 22a-363f and sections 22a-28 through 22a-35 of the Connecticut General Statutes ("CGS"), and in accordance with section 22a-98 of the General Statutes, section 401 of the Federal Clean Water Act, as amended and the Connecticut Water Quality Standards dated December 2002, a permit is hereby granted by the Commissioner of Environmental Protection ("Commissioner") to remove seven existing fluid-filled electric transmission cables and install three new solid-core electric transmission cables by means of jetting and other methods as is more specifically described below in the SCOPE OF AUTHORIZATION, in the "work area" in Norwalk Harbor and Long Island Sound described above.

*******NOTICE TO PERMITTEES AND CONTRACTORS*******

FAILURE TO CONFORM TO THE TERMS AND CONDITIONS OF THIS PERMIT MAY SUBJECT THE PERMITTEES AND ANY CONTRACTOR TO ENFORCEMENT ACTIONS, INCLUDING PENALTIES AND INJUNCTIONS, AS PROVIDED BY LAW.

SCOPE OF AUTHORIZATION

The Permittee is hereby authorized to conduct the following work as described in application #200201976-MG, including eighteen (18) sheets of plans, Figures C-1c, C-2a, C-2b, C-3, C-4a and C-4b dated February 21, 2002, C-5, three (3) plans entitled "ADDED PROTECTION AND ANCHOR PLANS LONG ISLAND REPLACEMENT CABLE (LIRC)" received February 26, 2007, two (2) sheets of plans entitled "ARTICULATED CABLE PROTECTION" received February 26, 2007, a plan entitled "ANCHOR BUOY DETAIL" received February 26, 2007, Figures S1-1, S1-2 and S1-4 received December 13, 2002, submitted by the Permittee to the Commissioner and attached hereto:

1. disconnect, flush and remove seven (7) existing fluid-filled electric transmission cables using either direct-lift, water-jet or air-jet methodologies and mechanical means for the Sheffield Island crossing;

2. using a remote operated vehicle (ROV) jetting tool, or other jetting methodologies and mechanical means for the Sheffield Island crossing and the Manresa Island landing, install three (3) solid-core electric transmission lines from Manresa Island to Sheffield Island to a depth of no less than two feet below the substrate, and to a minimum of six (6) feet below the existing authorized dredge depth, including allowable overdredge, of the Norwalk Harbor Federal Navigation Channel and the navigation channel for Village Creek Association, except in those areas where cable protection is authorized pursuant to SPECIAL TERMS AND CONDITIONS - Installation Requirements #2. The cables authorized herein shall be installed a minimum of four (4) feet below the seabed south of Sheffield Island across Long Island Sound to the Connecticut New York state line as shown on the plans; and
3. install scientific measuring and monitoring devices and conduct restoration activities as required pursuant to the SPECIAL TERMS AND CONDITIONS, below.

UPON INITIATION OF ANY WORK AUTHORIZED HEREIN, THE PERMITTEE ACCEPTS AND AGREES TO COMPLY WITH ALL TERMS AND CONDITIONS OF THIS PERMIT.

SPECIAL TERMS AND CONDITIONS

Notice Requirements

1. The Permittee shall post a Notice to Mariners in accordance with United States Coast Guard regulations and shall notify commercial fishermen, shellfishermen and lobstermen of the start and completion dates of the work, the hours in which the work will be performed, the name and description of the work vessels, the VHF radio channel(s) the vessels will be monitoring and the Permittee's point of contact for the installation.
2. Not later than sixty (60) days prior to the commencement of the work authorized herein, the Permittee shall provide notice to the shellfish bed owners and leaseholders potentially impacted by the authorized work and shall provide written demonstration of such notification to the Commissioner and the Department of Agriculture, Bureau of Aquaculture ("DOA").
3. Not later than thirty (30) days prior to commencement of the work authorized herein, the Permittee shall contact the DEP- Marine Fisheries Division and DOA for lists of potentially affected fishermen, lobstermen, and shellfish bed owners and leaseholders ("affected parties"), respectively, and in consultation with DEP and DOA, provide written notification of the cable installation schedule to the affected parties not later than twenty-one (21) days prior to the commencement of the work. This notification shall include the timing, sequence and location of each cable installation, a map of the proposed cable routes, LORAN coordinates and magnetic course description of the cable paths as well as a contact person and phone number so that an affected party may contact the Permittee. The

Permittee shall provide copies of all written notifications to the list of potentially affected parties and to:

Department of Environmental Protection
Marine Fisheries Division
c/o Mark Johnson
333 Ferry Street
P.O. Box 719
Old Lyme, CT 06371

and

Department of Agriculture
Bureau of Aquaculture
c/o David Carey
P.O. Box 97
Milford, CT 06460

4. The Permittee shall notify the following hydrographic mapping agencies regarding nautical chart changes to reflect the new cables in Norwalk Harbor and Long Island Sound, as soon as "as-built" coordinate positions of the cable locations in Norwalk Harbor and Long Island Sound are available and shall confirm such notification in writing to the Commissioner and the Army Corps of Engineers ("ACOE"):

The Director
Defense Mapping Agency
Attn: Code DH
8613 Lee Highway
Fairfax, VA 22031-2137

Mr. Steven Debrecht
DMAHTC/MCC – Mailstop D-44
6000 MacArthur Blvd.
Bethesda, MD 20816-5000

5. The Permittee shall notify the following publications regarding nautical chart changes to reflect the new cables in Norwalk Harbor and Long Island Sound, as soon as as-built coordinate positions of the cable locations in Norwalk Harbor and Long Island Sound are available and shall confirm such notification in writing to the Commissioner and to the ACOE:

NOAA
U.S. Coast Guard
Defense Mapping Agency
Shipping Guides

6. Prior to the commencement of the work authorized herein, the Permittee shall contact the following agencies and shall comply with requirements regarding requirements for cable notification in any other appropriate navigational aid/marine safety publications/media:

Harbor Liaison Officer
Bureau of Aviation and Ports
State Pier
New London, CT 06320

Commander
U.S. Coast Guard Group/COTP
Long Island Sound
120 Woodward Avenue
New Haven, CT 06512

Commander
First Coast Guard District
408 Atlantic Avenue
Boston, MA 02210-2209

Commander
U.S. Coast Guard Group/New York
Governors Island, New York 10004-5098

7. Not later than seven (7) days prior to the commencement of the work authorized herein, the Permittee shall provide notification to and submit a construction schedule indicating anticipated date(s) of cable installation work to the Commissioner, the ACOE and the following agencies:

City of Norwalk
125 East Avenue
P.O. Box 5125
Norwalk, CT 06856

Michael Griffin, Norwalk Harbormaster
7 Donohue Drive
Norwalk, CT 06851

Commander
U.S. Coast Guard Group/MSO
Long Island Sound
120 Woodward Avenue
New Haven, CT 06512

Commander
First Coast Guard District
408 Atlantic Avenue
Boston, MA 02210-2209

Pre-Installation Requirements

- 1.(a) Prior to commencement of the cable installation work authorized pursuant to paragraph A.2 of the SCOPE OF AUTHORIZATION, above, and no later than six (6) months after the installation of the cables authorized herein, the Permittee shall survey the cable corridor as follows:
- (i) within Norwalk Harbor, two (2) representative 750-foot long (i.e. along the cable alignments) by 1,500-foot wide (i.e. across the cable alignments) areas. One survey area shall be located north of the federal navigation channel. The other survey area shall be located south of the federal navigation channel;
 - (ii) also within Norwalk Harbor, one continuous survey line along the entire length of one of the proposed cable alignments;
 - (iii) south of Sheffield Island, two (2) representative traverse areas across all seven (7) existing cables, one of which will be located near the 36-foot depth contour and cover an area approximately 800-foot long (i.e. along the cable alignments) by 2,200-foot wide (i.e. across the cable alignments), the other will be located near the state boundary and cover an area approximately 3,000-foot long by 6,000-foot wide; and
 - (iv) any additional surveys as may be required by the U.S. Army Corps of Engineers.

The Permittee shall, within thirty (30) days upon completion of such surveys, submit to the Commissioner for her review and written approval, a report that shall include a bottom profile survey of the sea floor (topographical survey) including three-dimensional hydro-acoustic and side scan surveys as well as Loran and GPS coordinates of the survey areas described above. Copies of such report shall also be forwarded to the DEP, Army Corps of Engineers ("ACOE"), National Marine Fisheries Service ("NMFS") and DOA.

- (b) Subsequent to completing the surveys required pursuant to paragraph 1.(a), above, the Permittee shall reinspect the entire cable route in Connecticut waters every two (2) years to determine if any portion(s) of the cables have migrated and report the results. The report

shall include the information required pursuant to paragraph 1.(a), above, and shall be submitted to the Commissioner for her review and written approval upon completion of each inspection. Each written report shall also be forwarded to DEP, ACOE, NMFS and DOA. In the event that five consecutive inspection reports demonstrate no change in cable location, the Permittee may request modification of the monitoring intervals by the Commissioner.

- (c) If such report reveals that any portion(s) of the cables has migrated or is not buried to a minimum depth of two (2) feet below the seabed of Norwalk Harbor and to a minimum depth of six (6) feet below the authorized dredge depth of the Norwalk Harbor Federal Navigation Channel and the navigation channel of Village Creek, the Permittee shall immediately notify the Commissioner, ACOE, NMFS and DOA, secure all necessary authorizations from the Commissioner for corrective measures and upon receipt of such approvals undertake immediate corrective action(s). Within thirty (30) days upon completion of the corrective action(s), the Permittee shall provide a written report to the Commissioner, ACOE, NMFS and DOA, describing the action taken, its completion date, and including a resurvey in accordance with paragraph 1.(a), above.
- 2.(a) Prior to the commencement of the cable installation work authorized pursuant to SCOPE OF AUTHORIZATION paragraph #2., above, the Permittee shall, in consultation with DEP-Marine Fisheries Division, DEP-OLISP and DOA, develop and implement a plan and schedule to conduct a baseline survey of the existing shellfish beds located on either side of the existing cable corridor and three (3) additional surveys beginning six (6) months after installation of the cable, with the second and third at six-month intervals thereafter. The purpose of these surveys is to determine the rate of sediment reconsolidation and biological recolonization of the disturbed substrate. Such surveys shall include, but shall not be limited to, a physical assessment of the existing benthic conditions, sediment conditions, temperature, shellfish resource types and health and shellfish resource concentrations. The Permittee shall submit for the Commissioner's review and written approval a plan outlining how the surveys will be conducted and a schedule for conducting such surveys prior to conducting such surveys.
- (b) The Permittee shall carry out the surveys pursuant to paragraph 2.(a), above, in accordance with the plan and schedule approved by the Commissioner. The Permittee shall prepare written reports of each survey and shall submit such reports to the Commissioner for review and written approval on or before thirty (30) days following the completion of each survey. The Permittee shall also provide copies of these reports to DEP-Marine Fisheries Division and DOA.
 - (c) If, based upon review of the reports, the Commissioner determines that shellfish beds have been adversely impacted as a result of the removal of the existing cables, installation of the new cables, cable repair, or as the result of unanticipated events related to the cables, the Commissioner may require remediation of impacted shellfish beds. Within ninety (90) days

of notification by the Commissioner of such requirement, the Permittee shall develop a plan and schedule in consultation with ACOE, DOA and DEP for the remediation of impacted shellfish beds, and shall submit such plan for the review and written approval of the Commissioner.

- (d) The Permittee shall implement the plan and schedule as approved by the Commissioner pursuant to paragraph 2.(c), above.

Installation Requirements

1. The Permittee shall only utilize anchors within the area between Sheffield Island and Manresa Island in the locations identified on three (3) sheets of plans attached hereto entitled "ANCHOR PLANS LONG ISLAND REPLACEMENT CABLE (LIRC)."
2. The Permittee shall only utilize metal cable sheath protection within the area located between Sheffield Island and Manresa Island in the locations identified on three (3) sheets of plans attached hereto entitled "ADDED PROTECTION AND ANCHOR PLANS LONG ISLAND REPLACEMENT CABLE (LIRC)."
3. The Permittee shall establish a 100' wide buffer around Targets #14, 21, 144, 312, 423 and 424, as shown on Figure 1 identified in the Dolan Research, Inc. report dated December 2002, and any activities associated with the installation of the new cables shall not occur within the 100' buffer area unless otherwise authorized in writing by the Commissioner. Cable removal activities may occur within the 100' buffer, however, removal activities within 100' of Targets #868 and 930 identified in the aforementioned Dolan report shall be performed with an environmental inspector on-site.
4. The Permittee shall install the cables authorized herein to a minimum depth of two (2) feet below the seabed between Manresa Island and Sheffield Island and to a minimum of six (6) feet below the existing authorized dredge depth, including allowable overdredge of the Norwalk Harbor Federal Navigation Channel and the navigation channel for Village Creek Association except where identified in the SCOPE OF AUTHORIZATION. The Permittee shall install the cables authorized herein to a minimum of four (4) feet below the seabed south of Sheffield Island across Long Island Sound unless otherwise authorized in writing by the Commissioner.

Post-Installation Requirements

- 1.(a) The Permittee shall develop, in consultation with NMFS, the DEP-Marine Fisheries Division and DOA, a plan and schedule to conduct two (2) years of monitoring of electromagnetic fields, temperature, sediment chemistry, habitat disturbance and species impacts along the cable routes. Such plan shall be submitted for the Commissioner's review and written approval no later than sixty (60) days after issuance of this permit.

- (b) The Permittee shall implement the plan and schedule as approved by the Commissioner pursuant to paragraph 1.(a), above. The monitoring reports shall be submitted for the Commissioner's review and written approval and copies forwarded to NMFS, the DEP-Marine Fisheries Division and DOA no later than thirty (30) days after completion of each survey event.
- (c) If, based upon the results of one or more of such surveys, the Commissioner determines that mitigation and/or restoration is necessary to address adverse impacts caused by the cable installation within ninety (90) days of notification by the Commissioner of such requirement, the Permittee shall develop a plan and schedule in consultation with NMFS, the DEP-Marine Fisheries Division and DOA, and shall submit such plan for the review and written approval of the Commissioner.
- (d) The Permittee shall implement the plan and schedule as approved by the Commissioner pursuant to paragraph 1.(c), above.

Restoration Requirements

1. Not later than forty-five (45) days of issuance of this permit, the Permittee shall develop, in consultation with DEP-OLISP, a tidal wetlands restoration plan to mitigate the impacted tidal wetlands areas on Sheffield Island associated with the removal of the existing cables and the installation of the new cables. The restoration plan shall include a schedule for implementation. Such plan shall be submitted for the Commissioner's review and written approval. The Permittee shall implement the plan and schedule as approved by the Commissioner. The Permittee shall not conduct work at Sheffield Island until the Commissioner approves such plan.
2. Prior to the commencement of the work authorized herein and not later than sixty (60) days of the issuance of this permit, the Permittee shall, in consultation with DOA, develop a plan for the restoration of shellfish beds in the areas impacted by cable removal between Manresa and Sheffield Islands and areas impacted by previous cable installations. Such plan shall include provisions for backfill of the trenches and anchor strikes with suitable backfill material and the purchase and placement of cultch or other suitable bed material to encourage reestablishment of shellfish beds. The plan shall include a schedule for implementation. The Permittee shall consult with DOA to determine a suitable backfill material and clutch, and location for the placement of this material. The Permittee shall submit such plan to the Commissioner for review and written approval prior to implementation. The Permittee may request modifications to the approved plan, subject to the Commissioner's review and written approval based upon interim and/or final results of the post-installation monitoring surveys identified above. The Permittee shall implement this plan upon written approval by the Commissioner.

3. The Permittee shall develop an operations and maintenance plan describing cable maintenance and repair procedures. The Permittee shall submit the plan to the Commissioner for review and written approval not later than fifteen (15) days after completion of the work authorized herein and shall forward copies to the ACOE, the DOA, National Oceanic and Atmospheric Administration ("NOAA") and NMFS. The Permittee shall not conduct maintenance or repair work until the Commissioner approves such plan, and shall implement the operations and maintenance plan approved by the Commissioner.

Seasonal Restrictions

1. All work authorized herein including excavation, dredging, filling, removal of debris or other material is prohibited between May 1st through September 30th, inclusive, of any year in order to protect spawning shellfish in the area, unless otherwise authorized in writing by the Commissioner, before any such work or activity takes place.

Administrative Requirements

1. The Permittee shall keep daily work logs indicating cable-laying vessel position, weather conditions, navigation traffic encountered and length of cable installed and/or removed and shall provide the Commissioner and the Department of Agriculture, Bureau of Aquaculture ("DOA") with a copy of such logs by the end of each work week.
2. Within sixty (60) days of issuance of this permit, the Permittee shall submit to the Commissioner for her review and written authorization, details of the sedimentation and erosion control measures to be utilized in the work authorized herein.
3. Not later than one-week prior to the commencement of any work authorized herein, the Permittee shall submit to the Commissioner, on the form attached hereto as Appendix A, the name(s) and addresses of any contractors employed to conduct such work and the expected dates for commencement and completion of such work.
4. On or before (a) ninety (90) days after completion of the work authorized herein, or (b) upon expiration of the work completion date or any authorized one-year extension thereof, whichever is earlier, the Permittee shall submit to the Commissioner "as-built" plans prepared and sealed by a licensed engineer, licensed surveyor or licensed architect, as applicable, of the work area showing all contours, bathymetries, tidal datum and structures, and showing the final cable location including loran coordinates, GPS coordinates and burial depth.
5. Except as specifically authorized by this permit, no equipment or material including, but not limited to, fill, construction materials, excavated material or debris, shall be deposited, placed or stored in any wetland or watercourse, on or off-site, or within any delineated

setback area, nor shall any wetland, watercourse or delineated setback area be used as a staging area or accessway other than as provided herein.

6. A complete copy of this permit, including all drawings, special conditions, and any amendments, shall be maintained at the work site(s) whenever work is being performed. The Permittee shall assure that all contractors, subcontractors and other personnel performing the authorized work are fully aware of all permit terms and conditions by including the entire permit in the specifications for work.
7. Within ninety (90) days of completion of the work authorized herein, provided it is true, the Permittee shall submit the following certification to the Commissioner:

"I have personally examined and am familiar with the written and electronic submittal of information provided to the Commissioner, by, or on behalf of, the Permittee regarding the activity authorized by this SCOPE OF AUTHORIZATION and I certify that, based upon reasonable investigation, including my inquiry of the individuals responsible for obtaining such information is true, accurate and complete and that the Permittee has complied with all of the terms and conditions of this SCOPE OF AUTHORIZATION, including but not limited to, burial of cables at the required location and depths.

I understand that any false statement regarding this certification or any other information submitted to the Commissioner concerning this SCOPE OF AUTHORIZATION may be punishable as a criminal offense, in accordance with section 22a-6 of the Connecticut General Statutes, pursuant to section 53a-157b of the General Statutes and in accordance with any other applicable law."

8. Within ninety (90) days of completion of the work authorized herein if the Permittee is unable to truthfully provide the certification identified in paragraph 7., above, the Permittee shall provide a detailed explanation to the Commissioner as to why any such certification cannot be provided, including any non-compliance with the terms and conditions of the SCOPE OF AUTHORIZATION. If the reason for not providing the certification is resolved, within fifteen (15) days of any such resolution, or such longer time period that may be prescribed by the Commissioner, the Permittee shall submit the certification noted above to the Commissioner.

Nothing in this section shall affect any authority of the Commissioner, including but not limited to, the authority to take an enforcement action the Commissioner deems appropriate, regarding any non-compliance reported by the Permittee pursuant to this section.

9. Except during times of cable installation, maintenance or repair activities, the Permittee shall not interfere with the lawful and authorized use of shellfish bed leases, commercial aquaculture, shellfishing or fishing operations within and/or adjacent to the cable corridor.

10. Prior to the commencement of the work authorized herein, the Permittee shall post a performance bond or other financial surety in the amount of one million dollars (\$1,000,000.00), in favor of the Commissioner in order to secure emergency repairs, removal or relocation of the cable as determined necessary by the Commissioner. Prior to posting such surety, the Permittee shall submit to the Commissioner for her review and written approval the form and terms of such surety. Such surety shall only be released upon permanent removal of the new cables authorized herein and upon written approval of the Commissioner.
11. At the end of the useful life of the cables, the Permittee shall remove the cables from the waters of Norwalk Harbor and Long Island Sound and dispose of said cables in accordance with all applicable federal, state and local requirements.
12. All waste material generated by the work authorized herein shall be disposed of at an approved upland disposal location approved for the disposal of such material in accordance with all applicable federal, state and local requirements.
13. Prior to the commencement of the work authorized herein, the Permittee shall obtain all applicable state, federal and local authorizations, approvals or licenses.
14. The Permittee shall use leak-proof storage containers for the transport of the dielectric fluid and flushing water.
15. The Permittee shall submit final design plans regarding the volume and area of stone riprap to be placed on the south side of Sheffield Island within thirty (30) days of commencement of the activity identified in the SCOPE OF AUTHORIZATION, above.

Compensation Requirements

1. The Permittee shall, not later than sixty (60) days prior to the commencement of the work authorized herein, prepare and submit to the Commissioner for approval a plan by which the Permittee shall provide compensation to commercial shellfishermen, fishermen and lobstermen ("Claimants") for catch lost or destroyed as a result of the cable installation. The plan shall include an alternate dispute resolution process for the resolution, by mediation and/or arbitration, of claims. The use of the Plan procedures, rather than an action at law, shall be at the option of the Claimant. The Plan shall describe the available mediation and arbitration procedures, including the proof of loss required to be submitted or produced by a Claimant; shall provide a standard or formula for determining current fair market value of the lost or destroyed catch; and shall designate one or more mediators and arbitrators. All costs of mediation and/or arbitration, including the fees of the mediator or arbitrator, shall be paid by the Permittee.

GENERAL TERMS AND CONDITIONS

1. All work authorized by this permit shall be completed within three (3) years from date of issuance of this permit ("work completion date") in accordance with all conditions of this permit and any other applicable law.
2. The Permittee may request a one-year extension of the work completion date. Such request shall be in writing and shall be submitted to the Commissioner at least thirty (30) days prior to said work completion date. Such request shall describe the work done to date, work which still needs to be completed and the reason for such extension. The Commissioner shall grant or deny such request at her sole discretion.
3. Any work authorized herein conducted after said work completion date or any authorized one-year extension thereof is a violation of this permit and may subject the Permittee to enforcement action, including penalties, as provided by law.
4. In conducting the work authorized herein, the Permittee shall not deviate from the attached plans, as may be modified by this permit. The Permittee shall not make de minimis changes from said plans without prior written approval of the Commissioner.
5. The Permittee shall maintain all structures or other work authorized herein in good condition. Any such maintenance shall be conducted in accordance with applicable laws including, but not limited to, sections 22a-28 through 22a-35 and sections 22a-359 through 22a-363f of the CGS.
6. Prior to the commencement of any work authorized herein, the Permittee shall cause a copy of this permit to be given to any contractor(s) employed to conduct such work. At the work area the Permittee shall, whenever work is being performed, make available for inspection a copy of this permit and the final plans for the work authorized herein.
7. In undertaking the work authorized hereunder, the Permittee shall not cause or allow pollution of wetlands or watercourses, including pollution resulting from sedimentation and erosion. For purposes of this permit "pollution" means "pollution" as that term is defined by section 22a-423 of the CGS.
8. Upon completion of any work authorized herein, the Permittee shall restore all areas impacted by construction, or used as a staging area or accessway in connection with such work, to their condition prior to the commencement of such work.
9. Any document required to be submitted to the Commissioner under this permit or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:

Permit Section
Office of Long Island Sound Programs
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06106-5127

10. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three (3) days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word "day" as used in this permit means calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
11. The work specified in the SCOPE OF AUTHORIZATION is authorized solely for the purpose set out in this permit. No change in the purpose or use of the authorized work or facilities as set forth in this permit may occur without the prior written authorization of the Commissioner. The Permittee shall, prior to undertaking or allowing any change in use or purpose from that which is authorized by this permit, request authorization from the Commissioner for such change. Said request shall be in writing and shall describe the proposed change and the reason for the change.
12. This permit may be revoked, suspended, or modified in accordance with applicable law.
13. This permit is not transferable without prior written authorization of the Commissioner. A request to transfer a permit shall be submitted in writing and shall describe the proposed transfer and the reason for such transfer. The Permittee's obligations under this permit shall not be affected by the passage of title to the work area to any other person or municipality until such time as a transfer is authorized by the Commissioner.
14. The Permittee shall allow any representative of the Commissioner to inspect the work authorized herein at reasonable times to ensure that it is being or has been accomplished in accordance with the terms and conditions of this permit.
15. In granting this permit, the Commissioner has relied on representations of the Permittee, including information and data provided in support of the Permittee's application. Neither the Permittee's representations nor the issuance of this permit shall constitute an assurance by the Commissioner as to the structural integrity, the engineering feasibility or the efficacy of such design.

16. In the event that the Permittee becomes aware that they did not or may not comply, or did not or may not comply on time, with any provision of this permit or of any document required hereunder, the Permittee shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, the Permittee shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Permittee shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Permittee shall not excuse noncompliance or delay and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically stated by the Commissioner in writing.
17. In evaluating the application for this permit, the Commissioner has relied on information and data provided by the Permittee and on the Permittee's representations concerning site conditions, design specifications and the purpose of the work authorized herein, including but not limited to representations concerning the commercial, public or private nature of the work or structures authorized herein, the water-dependency of said work or structures, its availability for access by the general public, and the ownership of regulated structures or filled areas. If such information proves to be false, deceptive, incomplete or inaccurate, this permit may be modified, suspended or revoked, and the Permittee may be subject to enforcement action.
18. The Permittee may not conduct any work waterward of the high tide line or in tidal wetlands at this work area other than work authorized herein, unless otherwise authorized by the Commissioner pursuant to section 22a-359 et. seq. and/or section 22a-32 et. seq. of the CGS.
19. The issuance of this permit does not relieve the Permittee of their obligations to obtain any other approvals required by applicable federal, State and local law.
20. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the Permittee and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
21. This permit is subject to and does not derogate any present or future property rights or powers of the State of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, State or local laws or regulations pertinent to the property or activity affected hereby.

Issued on _____, 2007.

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Gina McCarthy
Commissioner

Permit #200201976-MG, Norwalk
Connecticut Light & Power Company

APPENDIX A

**TO: Permit Section
Department of Environmental Protection
Office of Long Island Sound Programs
79 Elm Street
Hartford, CT 06106-5127**

PERMITTEE: Connecticut Light & Power Company
c/o Jeff Martin
P.O. Box 270
Hartford, CT 06141-0270

PERMIT NO.: 200201976-MG, Norwalk

CONTRACTOR 1: _____

Address: _____

Telephone #: _____

CONTRACTOR 2: _____

Address: _____

Telephone #: _____

CONTRACTOR 3: _____

Address: _____

Telephone #: _____

EXPECTED DATE OF COMMENCEMENT OF WORK: _____

EXPECTED DATE OF COMPLETION OF WORK: _____

PERMITTEE: _____
(signature) (date)